

§ 2.765

comments with the Commission pointing out matters which, in their view, pertain to the immediate effectiveness issue. To be considered, such comments must be received within 10 days of the Board decision. However, the Commission may dispense with comments by so advising the parties. No extensive stay shall be issued without giving the affected parties an opportunity to be heard.

(iii) The Commission intends to issue a stay decision within 30 days of receipt of the Licensing Board's decision. The Licensing Board's initial decision will be considered stayed pending the Commission's decision insofar as it may authorize operations other than fuel loading and low power (up to 5 percent of rated power) testing.

(iv) In announcing a stay decision, the Commission may allow the proceeding to run its ordinary course or give instructions as to the future handling of the proceeding. Furthermore, the Commission may in a particular case determine that compliance with existing regulations and policies may no longer be sufficient to warrant approval of a license application and may alter those regulations and policies.

(g) The Commission's effectiveness determination is entirely without prejudice to proceedings under § 2.786 or § 2.788.

[36 FR 828, Jan. 19, 1971, as amended at 45 FR 74711, Nov. 12, 1980; 46 FR 13978, Feb. 25, 1981; 46 FR 28628, May 28, 1981; 46 FR 47765, Sept. 30, 1981; 47 FR 2305, Jan. 15, 1982; 47 FR 40536, Sept. 15, 1982; 48 FR 52286, Nov. 17, 1983; 54 FR 7757, Feb. 23, 1989; 54 FR 14944, Apr. 14, 1989; 56 FR 29408, June 27, 1991; 60 FR 20886, Apr. 28, 1995]

§ 2.765 Immediate effectiveness of initial decision directing issuance or amendment of licenses under part 61 of this chapter.

An initial decision directing the issuance of a license under part 61 of this chapter (relating to land disposal of radioactive waste) or any amendment to such a license authorizing actions which may significantly affect the health and safety of the public, will become effective only upon order of the Commission. The Director of Nuclear Material Safety and Safeguards may not issue a license under part 61 of this chapter, or any amendment to such a

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license which may significantly affect the health and safety of the public, until expressly authorized to do so by the Commission.

[47 FR 57478, Dec. 27, 1982]

FINAL DECISION

§ 2.770 Final decision.

(a) The Commission will ordinarily consider the whole record on review, but may limit the issues to be reviewed to those identified in an order taking review.

(b) The Commission may adopt, modify, or set aside the findings, conclusions and order in the initial decision, and will state the basis of its action. The final decision will be in writing and will include:

(1) A statement of findings and conclusions, with the basis for them on all material issues of fact, law or discretion presented;

(2) All facts officially noticed;

(3) The ruling on each material issue; and

(4) The appropriate ruling, order, or denial of relief, with the effective date.

[27 FR 377, Jan. 13, 1962, as amended at 48 FR 52286, Nov. 17, 1983; 56 FR 29409, June 27, 1991]

§ 2.771 Petition for reconsideration.

(a) A petition for reconsideration of a final decision may be filed by a party within ten (10) days after the date of the decision.

(b) The petition for reconsideration shall state specifically the respects in which the final decision is claimed to be erroneous, the grounds of the petition, and the relief sought. Within ten (10) days after a petition for reconsideration has been filed, any other party may file an answer in opposition to or in support of the petition. However, the staff may file such an answer within twelve (12) days after a petition for reconsideration has been filed.

(c) Neither the filing nor the granting of the petition shall stay the decision unless the Commission orders otherwise.

[27 FR 377, Jan. 13, 1962, as amended at 31 FR 4340, Mar. 12, 1966; 43 FR 17802, Apr. 26, 1978; 48 FR 52286, Nov. 17, 1983; 56 FR 29409, June 27, 1991]